

Serial no. 09/911,703

Attorney Docket no. 27693-01008

REMARKS

The Office holds that the substitute sequence listing filed on 12 August 2005 does not comply with 37 C.F.R. § 1.821 *et seq.* because SEQ ID NOs: 9 and 11 are not indicated in the sequence listing as being antisense sequences, whereas the corresponding sequence identifiers in the original sequence listing were denoted as antisense.

For the following reasons, applicant respectfully submits that the requirement mailed on 2 November 2005 was issued in error and should be vacated.

The information that is required to appear in the header fields of sequences in a sequence listing is specified at 37 C.F.R. § 1.823. An indication that a DNA sequence is sense or antisense would appear as a miscellaneous feature in fields <220> to <223>. As set forth in the table at § 1.823(b), such fields are mandatory if and only if: (i) a residue is a modified or unusual amino acid or nucleotide base; (ii) the ORGANISM is an artificial sequence or unknown; or (iii) the listed sequence represents a combined DNA/RNA molecule. In all other cases, the miscellaneous feature fields <220> to <223> are optional.

Because § 1.823(b) does not specify that an indication that a sequence is sense or antisense is mandatory, the information is optional. Accordingly, the sequence listing filed on 12 August 2005 does not fail to comply with the sequence rules for omitting this information. The substitute sequence listing filed on 12 August 2005 fully complies with 37 C.F.R. § 1.821 *et seq.*

Applicant notes that the sequence listing filed on 12 August 2005 does not raise a question of new matter with respect to the orientation of SEQ ID NOs: 9 and 11. These sequences (original SEQ ID NOs: 4 and 7) are clearly indicated as antisense primers in the original specification at page 40, line 33, and page 41, line 26, respectively. That information remains in the specification as amended.

Applicant also notes that the response filed on 12 August 2005 was a complete reply under 37 C.F.R. § 1.111. The interval between 12 August 2005 and the date that this letter is submitted thus does not correspond to a failure on the part of the applicant to engage in reasonable efforts to conclude prosecution within the meaning of 37 C.F.R. § 1.704. For the same reason, any time between the date that is four months after 12 August 2005 and the date the

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Office mails a communication under 35 U.S.C. § 132 or § 151 constitutes an examination delay under 37 C.F.R. § 1.703(a)(2).

**Conclusion**

Applicant respectfully requests that the examiner vacate the requirement set forth in the letter mailed on 2 November 2005 and prepare an action on the merits at an early date.

Respectfully submitted,



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2 December 2005

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